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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ACHILLES D. CORELLEONE,) Civil No. 07cv2094-L(NLS)
12 Plaintiff,) **ORDER RE: ORAL ARGUMENT**
13 v.)
14 STATE OF CALIFORNIA, *et al.*,)
15 Defendants.)
16 _____)

17 Plaintiff, appearing *pro se*, filed the above-captioned case and was granted leave to
18 proceed *in forma pauperis* under 28 U.S.C. § 1915. Plaintiff alleges a violation of his
19 constitutional rights under 42 U.S.C. § 1983 against defendants the State of California, City of
20 San Diego, and the County of San Diego. Plaintiff contends that California Penal Code § 647(e)
21 was determined to be unconstitutionally vague in *Kolender v. Lawson*, 461 U.S. 352 (1983), yet
22 defendants are still enforcing Section 647(e) in violation of the Fourteenth Amendment.
23 Plaintiff also seeks a preliminary injunction.

24 Defendant State of California filed a motion to dismiss the complaint under Federal Rules
25 of Civil Procedure 8(a)(1) and (2), 12(b)(1) and 12(b)(6). [doc. #10]. Defendant City of San
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Diego also moves to dismiss plaintiff's complaint on the same grounds.¹ Hearing on defendants' motions is set for April 28, 2008. But the Court notes that plaintiff has not filed an opposition to either motion within the time provided under the Civil Local Rules. Under the Local Rules, plaintiff's opposition was due on April 14, 2008. Civ. L.R. 7.1.e.2. To date, plaintiff has neither filed an opposition nor sought an extension of time in which to file his opposition to either or both motions. When an opposing party does not file papers in the manner required by Civil Local Rule 7.1.e.2, the Court may deem the failure to "constitute a consent to the granting of a motion or other request for ruling by the court." Civ. L.R. 7.1.f.3.c.

The Court finds these motions suitable for determination on the papers submitted and without oral argument pursuant to Civil Local Rule 7.1(d)(1). Accordingly, no appearances are required.

IT IS SO ORDERED.

DATED: April 18, 2008


M. James Lorenz
United States District Court Judge

COPY TO:

HON. NITA L. STORMES
UNITED STATES MAGISTRATE JUDGE

ALL PARTIES/COUNSEL

¹ Although plaintiff attempted to serve defendant County of San Diego, service was not effectuated. *See* Form USM-285, doc. #9. The time to effectuate service of process has expired as to the County of San Diego. Therefore, the County of San Diego is not a defendant in this action. Federal Rule of Civil Procedure 4(m).